A&E Partners Holding, LLC et al v. IAC/Interactive Corp. Doc. 5 Att. 4

Exhibit D

Dockets.Justia.com

United States Bankruptcy Court for the Southern District of New York
PRC, LLC Claims Processing
c/o Epiq Bankruptcy Solutions, LLC
FDR Station, P.O. Box 5082
New York, NY 10150-5082

PROOF OF CLAIM

In Re:
PRC, LLC, Inc., et al.
Debtors.

Chapter 11
Case No. 08-10239 (MG)
Jointly Administered

Name of Debtor Against Which Claim is Held: PRC, LLC

Case No. of Debtor:

Filed: USBC - Southern District of New York
PRC LLC, Et Al.
08-10239 (MG) 0000000291

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name and address of Creditor : (and name and address where notices should be sent if different from Creditor)

A&E Partners Holding, LLC and A&E Partners Holding I, LLC
c/o Cole, Schotz, Meisel, Forman & Leonard, P.A.
Court Plaza North, 25 Main Street
P.O. Box 800
Hackensack, NJ 07602-0800
(Attn: Ilana Volkov, Esq)
Telephone number: (201) 489-3000 Email Address: ivolkov@coleschotz.com

☐ Check this box to indicate that this claim amends a previously filed claim.

Court Claim Number: ____________
(If known)

Filed on: ____________

Name and address where payment should be sent (if different from above)

Telephone number: Email Address:

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check this box if you are the debtor or trustee in this case.

1. **Amount of Claim as of Date Case Filed:** $244,755.57 plus all applicable interest and fees under the Lease
If all or part of your claim is secured, complete Item 4 below; however, if all of your claim is unsecured, do not complete item 4.
If all or part of your claim is entitled to priority, complete Item 5.
☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of interest or additional charges.

2. **Basis for Claim:** Real estate taxes pursuant to Lease Agreement
(See instruction #2 on reverse side.)

3. **Last four digits of any number by which creditor identifies debtor:** ____________
3a. **Debtor may have schedules account as:** ____________
(See instruction #3a on reverse side.)

4. **Secured Claim** (See instruction #4 on reverse side.)
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other
Describe: ____________

Value of Property: $____________ Annual Interest Rate ______%

Amount of arrearage and other charges as of time case filed included in secured claim, if any:

$____________ Basis for perfection: ____________

Amount of Secured Claim: $____________ **Amount Unsecured:** $____________

5. **Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.**

Specify the priority of the claim:

☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
☐ Wages, salaries or commissions (up to $10,950*), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).
☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).
☐ Up to $2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).
☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
☐ Other – Specify applicable paragraph of 11 U.S.C. § 507(a)(____).

Amount entitled to priority:

$____________

** Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment*

6. **Credits:** The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. **Documents:** Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. *(See definition of "redacted" on reverse side.)*
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.
If the documents are not available, please explain:

FOR COURT USE ONLY

FILED / RECEIVED
APR 24 2008
EPIQ BANKRUPTCY SOLUTIONS, LLC

Date: 4/21/08

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

2601732

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

Items to be completed in Proof of Claim form

Name of Debtor, and Case Number:
Fill in the name of the debtor in the bankruptcy case, and the bankruptcy case number.

PRC, LLC	08-10239
Panther/DCP Intermediate Holdings, LLC	08-10238
PRC B2B, LLC	08-10240
Precision Response of Pennsylvania LLC	08-10241
Access Direct Telemarketing, Inc.	08-10242

Creditor's Name and Address:
Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:
State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:
State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:
State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:
Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

4. Secured Claim:
Check the appropriate box and provide the requested information if the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See DEFINITIONS, below.) State the type and the value of property that secures the claim, attach copies of lien documentation, and state annual interest rate and the amount past due on the claim as of the date of the bankruptcy filing.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).
If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:
An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:
Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.

Date and Signature:
The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor
A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor
A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

Claim
A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim
A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. §506(a)
A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim
An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. §507(a)
Priority claims are certain categories of unsecured Claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted
A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

Evidence of Perfection
Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim
To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the Claims Agent's system (http://chapter11.epiqsystems.com/prcllc) to view your filed proof of claim.

Offers to Purchase a Claim
Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

2601732

PRC, LLC *et al.*
Case No. 08-10239

ATTACHMENT TO PROOF OF CLAIM FOR A&E PARTNERS HOLDING, LLC AND A&E PARTNERS HOLDING I, LLC

On January 23, 2008 (the "Filing Date"), PRC, LLC (the "Debtor") filed a voluntary petition for relief under Chapter 11 of Title 11, United States Code (the "Bankruptcy Code").

A&E Partners Holding, LLC and A&E Partners Holding I, LLC, successor-in-interest to Parker Real Estate Partners II, LLP (collectively, the "Landlord"), is the landlord of that certain parcel of land with the buildings and improvements thereon located at 19500 South Dixie Highway, Cutler Ridge, Miami-Date County, Florida (the "Premises") pursuant to a Lease Agreement dated April 1, 2008 (the "Lease"). A copy of the Lease is attached hereto as Exhibit A.

Article 3 of the Lease, captioned Payment of Taxes, Assessments, etc., provides, in relevant part, as follows:

> During the Term Tenant shall, as additional rent, pay to the taxing authority directly . . . all taxes (including ad valorem real property taxes, personal property and sales taxes, if any), assessments . . . of any kind and nature whatsoever which at any time may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on, the Demised Premises or any party thereto or any appurtenances thereto . . .

See Lease, § 3.01.

Article 6 of the Lease, captioned Landlord's Right to Perform Tenant's Covenants, provides, in relevant part:

> If Tenant shall at any time fail to pay any Imposition in accordance with the provisions of Article 3 hereof . . . the Landlord, after ten (10) days' written notice to Tenant . . . may (a) pay any Imposition payable by Tenant pursuant to the provisions of Article 3 hereof . . .[1]

---

[1] All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Lease.

See Lease, § 6.01.

Additionally, Section 6.02 of the Lease states, in pertinent part:

> All reasonable sums so paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any such act, together with interest thereon at the Default Rate from the respective dates of Landlord's making of each such payment or incurring of each such cost and expense . . . shall constitute additional rent payable by Tenant under the Lease . . .

Real estate taxes and assessments for the Premises for 2007 in the total amount of $244,755.57 were due and payable by the Debtor to the Miami-Dade Tax Collector on March 31, 2008. The Debtor failed to make the payment and the Landlord exercised its right under Article 6 of the Lease to satisfy the obligation. Thus, the total amount of the Landlord's claim is $244,755.57, plus all applicable interest, fees and costs in accordance with the Lease.

NOTHING CONTAINED HEREIN SHALL BE DEEMED OR CONSTRUED TO PRECLUDE THE LANDLORD FROM ASSERTING THAT THIS CLAIM CONSTITUTES AN ADMINISTRATIVE EXPENSE OBLIGATION PURSUANT TO SECTION 503(b) OF THE BANKRUPTCY CODE.

THE LANDLORD EXPRESSLY RESERVES THE RIGHT TO AMEND AND SUPPLEMENT THIS PROOF OF CLAIM.

FedEx Express

3

The Worl

ORIGIN ID: TEBA (201) 489-3000
MAILROOM
COLE SCHOTZ MEISEL FORMAN & LE
25 MAIN ST.

HACKENSACK, NJ 07601
UNITED STATES US

Ship Date: 23APR08
ActWgt: 0.2 LB
System#: 0032579/CAFE2355
Account: S 156500500

TO ATTN: PRC, LLC CLAIMS PROCESSING
EPIQ BANKRUPTCY SOLUTIONS
757 3RD AVENUE 3RD FLOOR

NEW YORK, NY 10017

(201) 489-3000

FedEx Express

E

CLS050107/22/23

Ref: 45519-0001-FY-0462

Delivery Address Barcode

BILL SENDER

PRIORITY OVERNIGHT

TRK# 6365 9630 7695 Form 0201

THU
Deliver By:
24APR08

EWR A1

10017 -NY-US ZB OGSA
DSR

Part # 156148-434 NRII V3 11-07

For FedEx Express® Shipments Only